IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1903 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 06/10/2004 in WP NO : 11094 OF 2003 on the file of the High Court.)

Between:

B.V.B. Boys High School and BGBK Girls High School Jandrapet, Chirala Mandal, Prakasam District, rep. by its Secretary and Correspondent B. Krishna Prasad.

..... APPELLANT

AND

1 Guthi Hymavathi, W/o P. Sambasiva Rao,
Priya Vasavi Nilayam, Main Road, Jandrapet, Prakasam District.
2 Ankisetty Naga Sai, W/o P. Veerabhadra Rao,
Jandrapet, Prakasam District.
3 Sankham Sarada, W/o R.Koteswara Rao,
Prasad nagar,Near V.R.S. & Y.R.N. College, Chirala,Prakasam District.
4 Bandaru Prabhavathi, W/o N.Koteswara Rao,
Jandrapet, Chirala Mandal, Prakasam District.
5 Gutti Madhavi, W/o Z. Sudhakar Rao,
Jandrapet, Chirala Mandal, Prakasam District.
6 Gutti Siva Sankar, S/o Heramba Rao,
Jandrapet, Chirala Mandal, Prakasam District.
7 Yarram Raja Kumari, W/o Ch. Prabhakar Reddy,
Yadavapalem, Near Gangamma Temple, Chirala , Prakasam District.
8 Government of Andhra Pradesh, Rep. by its Commissioner and
Director of School Education, Hyderabad.
9 Regional Joint Director, Guntur.
10 District Educational Officer, Prakasam District, Ongole.

.....RESPONDENTS

Counsel for the Appellant: MR.K.ANANDA RAO

Counsel for the Respondent No.: GP FOR EDUCATION

The Court made the following :

ORDER: (Per the Honourable Smt. Justice T.Meenakumari)

This writ appeal is filed by the 4th respondent -appellant herein aggrieved by the order in W.P.No:11094 of 2003, under which the learned single Judge allowed the said writ petition

W.P. No. 11094 of 2003 has been filed by the writ petitioners-respondents-1 to 7 herein seeking for a direction in the nature of writ of mandamus to the respondents to absorb them into the vacant aided posts in the fourth respondent-appellant school from the date on which such posts have fallen vacant and to declare the action of the 4th respondent-appellant in filling up the vacant aided posts by direct recruitment notified in “Eenadu” Telugu Daily Newspaper, dated 16.5.2003 as illegal and contrary to the A.P. Education Act and Rules. The learned single Judge having observed that in view of the legal entitlement of the petitioners-respondents-1 to 7 herein for their absorption in the aided posts, the 4th respondent-appellant is directed to send the proposals of the petitioners-respondents-1 to 7 for their absorption into the vacant aided posts, if not already sent within three Weeks from the date of receipt of a copy of that order and respondents-8 to 10 herein are directed to consider the same and pass appropriate orders, allowed the writ petition. Having aggrieved by the same, the present writ appeal is preferred by the 4th respondent-appellant herein.

Heard the learned counsel on either side.

It is submitted by the learned counsel for the appellant-Management that after bifurcation of the school as Girls High School and Boys High School, which are under the management of the appellant, the writ petitioners-respondents-1 to 7 have been working in the Girls High School and therefore, they cannot seek for their absorption in the vacant aided posts that has been arisen in the Boys High School.

On the other hand, the learned counsel for the writ petitioners-respondents-1 to 7 herein submitted that in spite of the bifurcation, since the said two schools are under the control and management of the appellant herein, they have to be considered to be one unit, as a result of which the writ petitioners-respondents-1 to 7 are also entitled for absorption in the vacant aided posts arisen in the Boys High

School.

At this stage, while relying on the clause 7 (III) in G.O.Ms.No:75, dated 23.9.2000 of School Education Department, wherein certain procedure has been laid down for absorption of the unaided posts into vacant aided posts, it is submitted by the learned counsel for the appellant that the proposals have to be sent on par with the common seniority of the candidates who are working in both the schools in the light of the guidelines issued in the G.O. cited, but this aspect has not been considered by the learned single Judge.

The undisputed fact remains that both the schools viz., the Girls High School and the Boys High School in question are under the management and control of the appellant. In this view of the matter, we are of the considered view that there is some force in the contention raised by the appellant.

In view of the above circumstances and in view of the clause 7 (III) of the G.O.Ms.No:75, dated 23.9.2000, we feel it appropriate to modify the order of the learned single Judge, dated 6.10.2004 as under:

"The appellant-Management is directed to send the proposals of the names of the persons including the writ petitioners according to their seniority for absorption into the vacant aided posts keeping in view the guidelines issued in the Governmental order in G.O.Ms.No.75, dated 23.9.2000, within a period of four Weeks from today. However, it is made clear that on submission of such proposals, the 9th respondent-Regional Joint Director, Guntur is directed to consider the proposals after affording an opportunity to both the parties and pass appropriate orders keeping in view the seniority and as well as the guidelines issued in the G.O. cited, within a period of six (6) Weeks thereafter."

Subject to the above modification and directions, this writ appeal is disposed of.

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Justice T. Meenakumari

14th December 2004

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Justice S. Ananda Reddy

Kvrk

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1903 of 2004

(order of the Division Bench made by

the Hon'ble Smt Justice T.Meena Kumari)

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14th DECEMBER 2004

To

1. The Commissioner & Director of School Education, Government of

Andhra Pradesh, Hyderabad.
2. The Regional Joint Director, Guntur.
3. The District Educational Officer, Prakasam District, Ongole.

4. Two CD copies.